

## REMARKS -- TABLE OF CONTENTS

I.	STATUS OF CLAIMS .....	18
II.	REJECTIONS UNDER §101 .....	18
III.	REJECTIONS UNDER §112 .....	18
IV.	REJECTIONS UNDER §103 .....	19
V.	CONCLUSION.....	19

## **I. STATUS OF CLAIMS**

Claims 1-50 were pending for examination at the time of the office action.

Claims 1-50 stand rejected as allegedly being directed to non-statutory subject matter.. *See* Office Action, p. 3 (3 February, 2009).

Claims 14, 15, 39, and 40 stand rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. *See* Office Action, p. 4 (3 February, 2009).

Claims 1-4, 9-15, 17-21, 26-29, 34-36, 39, 40, and 42-46 stand rejected under 35 USC §103(a) as being unpatentable over Miller (U.S. Patent 5,920,701) in view of Jaeger et al. (U.S Patent 6,345,028) *See* Office Action, p. 5 (3 February, 2009).

Claims 5-8 and 30-33 stand rejected under 35 USC §103(a) as being unpatentable over Miller in view of Jaeger as applied to claim 1 above, and further in view of Eyer (U.S. Patent 5,801,753) *See* Office Action, p. 11 (3 February, 2009).

Claims 16, 22-25, 41, and 47-50 stand rejected under 35 USC §103(a) as being unpatentable over Miller in view of Jaeger as applied to claim 1 above, and further in view of Cho (U.S. Patent 6,081,402) *See* Office Action, p. 13 (3 February, 2009).

Claims 1-50 remain pending for examination.

## **II. REJECTIONS UNDER §101**

The Examiner rejected claims 1-50 under 35 USC §101 as being directed to only software. Applicant has amended independent claims 1 and 26 to recite a “hardware spatial data storage system.” Therefore, Applicant respectfully requests reconsideration and withdrawal of this rejection.

## **III. REJECTIONS UNDER §112**

The Examiner rejected claims 14, 15, 39, and 40 under 35 USC §112 as being indefinite for reciting the limitation “substantial” or “substantially.” Applicant has

amended the appropriate claims to clarify the scope of the claims. Therefore, Applicant respectfully requests reconsideration and withdrawal of this rejection.

#### **IV. REJECTIONS UNDER §103**

As noted above in the section entitled “Interview Summary”, Applicant respectfully submits that agreement was reached that the proposed amendments of Applicant’s independent claims as contained in this Response will overcome the Examiner’s current rejections, however, the Examiner will need to conduct an additional search prior to expressing an opinion on the overall allowability of the proposed amended claims.

In view of the foregoing amendments, Applicant respectfully requests reconsideration and withdrawal of all pending claim rejections, and notice of allowance of same.

#### **V. CONCLUSION**

Applicant may have during the course of prosecution cancelled and/or amended one or more claims. Applicant notes that any such cancellations and/or amendments will have transpired (i) prior to issuance and (ii) in the context of the rules that govern claim interpretation during prosecution before the United States Patent and Trademark Office (USPTO). Applicant notes that the rules that govern claim interpretation during prosecution form a radically different context than the rules that govern claim interpretation subsequent to a patent issuing. Accordingly, Applicant respectfully submits that any cancellations and/or amendments during the course of prosecution should be held to be tangential to and/or unrelated to patentability in the event that such cancellations and/or amendments are viewed in a post-issuance context under post-issuance claim interpretation rules.

Insofar as that the Applicant may have during the course of prosecution cancelled/amended/argued claims sufficient to obtain a Notice of Allowability of all claims pending, Applicant may not have during the course of prosecution explicitly addressed all rejections and/or statements in Examiner’s Office Actions. The fact that rejections and/or statements may not be explicitly addressed during the course of prosecution should NOT be taken as an admission of any sort, and Applicant hereby

reserves any and all rights to contest such rejections and/or statements at a later time. Specifically, no waiver (legal, factual, or otherwise), implicit or explicit, is hereby intended (e.g., with respect to any facts of which Examiner took Official Notice, and/or for which Examiner has supplied no objective showing, Applicant hereby contests those facts and requests express documentary proof of such facts at such time at which such facts may become relevant). For example, although not expressly set forth during the course of prosecution, Applicant continues to assert all points of (e.g. caused by, resulting from, responsive to, etc.) any previous Office Action, and no waiver (legal, factual, or otherwise), implicit or explicit, is hereby intended. Specifically, insofar as that Applicant does not consider the cancelled/unamended claims to be unpatentable, Applicant hereby gives notice that it may intend to file and/or has filed a continuing application in order prosecute such cancelled/unamended claims.

With respect to any cancelled claims, such cancelled claims were and continue to be a part of the original and/or present patent application(s). Applicant hereby reserves all rights to present any cancelled claim or claims for examination at a later time in this or another application. Applicant hereby gives public notice that any cancelled claims are still to be considered as present in all related patent application(s) (e.g. the original and/or present patent application) for all appropriate purposes (e.g., written description and/or enablement). Applicant does NOT intend to dedicate the subject matter of any cancelled claims to the public.

The Examiner is invited to contact the undersigned at (360) 649-5566, or Dale R. Cook at (425) 467-2260 with any issues that may advance prosecution of the application on the merits.

Respectfully submitted,

\_\_\_\_/Mark Hennings, Reg. No. 48,982/\_\_\_\_

Mark Hennings  
Registration No. 48,982